

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY A. PATE,

Plaintiff,

No. CIV S-04-1201 FCD DAD P

vs.

SACRAMENTO COUNTY
SHERIFFS DEPUTIES,

Defendant.

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has paid the filing fee.

On January 5, 2006, the court ordered plaintiff to file either the appropriate documentation demonstrating that defendant Garcia had been properly served, or an application requesting leave to proceed in forma pauperis so that the court could direct the U.S. Marshal to serve the defendant Garcia. On January 17, 2006, plaintiff filed a proof of service by mail which is not sufficient service of process. Rule 4(c) of the Federal Rules of Civil Procedure requires that a person not a party must effect service, and that if service is not waived by the defendant, the defendant must be personally served with the summons and complaint. The court will

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1 provide plaintiff with a final opportunity to submit an application requesting leave to proceed in
2 forma pauperis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Within thirty days from service of this order, plaintiff shall submit an
5 application requesting leave to proceed in forma pauperis which has also been completed and
6 signed by the authorized prison official, and a certified copy of the inmate trust account
7 statement;

8 2. The Clerk of the Court is directed to provide plaintiff with an Application to
9 Proceed In Forma Pauperis By a Prisoner; and

10 3. Plaintiff's failure to comply with this order will result in a recommendation
11 that this action be dismissed without prejudice.

12 DATED: June 9, 2006.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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